

Arizona Department of Health Services Children's Rehabilitative Services Administration	Effective Date: 10/01/2007
SUBJECT: HIPAA	SECTION: HI 1.6
SUBTITLE: CRSA HIPAA Complaint Resolution Policy	

PURPOSE:

To establish a process through which individuals receiving services from the Arizona Department of Health Services/Children's Rehabilitative Services Administration (ADHS/CRSA) program may file a Health Insurance Portability and Accountability Act (HIPAA) complaint.

POLICY:

CRSA is a health plan designation, as defined by the HIPAA Regulations. The policy of CRSA is to provide a process for reporting, investigating, and responding to alleged violations with the Privacy, Security, and Administrative Simplification Regulations.

AUTHORITY:

Public Law 104-191, Title II, Subtitle F, of the Health Insurance Portability and Accountability Act of 1996, the Administrative Simplification Provisions
 45 C.F.R. §§ 160, 162, and 164
 45 C.F.R. § 164.530(d)
 45 C.F.R. §164.308(a)(6)
 A.R.S. § 36-104
 A.R.S. §§ 36-261 - 265
 A.A.C. §§ R9-7-101 - 701

APPLICABILITY:

To all CRSA workforce members, business associates, contract personnel, and other persons who officially represent CRSA.

DEFINITIONS:

Arizona Department of Health Services (ADHS):
 Agency designated as the public health authority for the State of Arizona. ADHS, as defined by HIPAA, is a hybrid-covered entity.

Arizona Health Care Cost Containment System (AHCCCS):
 Agency that oversees the Medicaid services provided to the Arizona citizens.

ADHS HIPAA Compliance Officer:

Individual, appointed by the ADHS director or the director's designee, who as the designated officer that oversees agency-wide compliance for the HIPAA Privacy, Security, and Administrative Simplification Regulations, collaborates with health care components for response to HIPAA concerns or complaints, and provides advice to health care components in all matters related to HIPAA. The ADHS HIPAA Compliance Officer may designate a HIPAA Compliance Team member to collaborate with a health care component. The ADHS HIPAA Compliance Officer may be used interchangeably with "HIPAA Compliance Office."

Children Rehabilitative Services Administration (CRSA):

A subdivision of the ADHS that is the contracted administrator for the Arizona Health Care Cost System Administration (AHCCCSA) and the state funded plan, which provides regulatory oversight of the Children's Rehabilitative Services (CRS) Regional Contractors and their delivery of health care services. ADHS/CRSA functions as a health plan under the ADHS hybrid entity.

CRSA includes a program that provides for medical treatment, rehabilitation, and related support services to eligible individuals who have certain medical, handicapping, or potentially handicapping conditions that have the potential for functional improvement through medical, surgical, or therapy modalities.

CRS Member:

Individual, 21 years of age or younger, who is enrolled by the member's representative in either the AHCCCS or state funded CRS program and is eligible to receive defined health care services through the CRS Regional Contractors. The CRS member is the subject of Protected Health Information (PHI). The term "CRS Member" may be used interchangeably with the term "Representative."

CRSA HIPAA Privacy Official:

Person responsible for implementing all HIPAA Privacy information for ADHS/CRSA in collaboration with the ADHS HIPAA Compliance Officer for ADHS/CRSA.

CRS Regional Contractor:

Entity awarded a contract with ADHS/CRSA to provide medical treatment, rehabilitation, and related support services for enrolled CRS members.

Complaint - See Report of Concern.

Designated Record Set (DRS):

Set of collected and maintained eligibility and encounter records used or disseminated by ADHS/CRSA for purposes of member's eligibility and electronic encounter administration for medical, dental, and pharmacy related services provided by CRS Regional Contractors. The designated record set excludes quality assurance, peer review, oversight, or any other documents maintained by ADHS/CRSA for the operation of the program and its contractual relationship with AHCCCS or the CRS Regional Contractors.

Health Insurance Portability and Accountability Act (HIPAA)

Federal Public Law 104-191 of 1996 and the corresponding regulations developed by the United States Department of Health and Human Services that creates national standards for the privacy and security of protected health information and electronic billing standards to administer health care related claims.

Hybrid Entity:

Single legal entity: (1) that is covered, (2) the business activities include both covered and non-covered functions, and (3) that formally designates in writing which work areas are covered health care components of the hybrid entity.

Office for Civil Rights (OCR):

Federal agency of the United States Health and Human Services (HHS) responsible for administration and enforcement of the HIPAA Privacy Rule.

Protected Health Information (PHI):

The individually identifiable health information that is maintained, collected, used, or disseminated by ADHS/CRSA, a HIPAA defined health plan, as it relates to the eligibility, claims administration, and ADHS/CRSA operations relating to a member's past, present, or future health or condition, provision of health care or future payment for the provision of health care.

Quality Management:

Review of the quality of health care provided to CRS members.

Report of Concern:

Written notice of complaint or other written expression of concern from an individual, the individual's personal representative, or HHS regarding the alleged non-compliance of the Arizona Department of Health Service (ADHS), or an ADHS HIPAA Covered Component of the agency, with the HIPAA Regulations, including Privacy, Security and the Administrative Simplification Provisions.

Representative:

Individual who is authorized, either by the member or by Arizona law, to make health care treatment decisions for the member when the member is unable to make treatment decisions. Member representative has this same meaning as personal representative under the HIPAA Privacy Regulations.

SPECIAL NOTATIONS

All timeframes are calendar days unless otherwise specified.

Unauthorized release of protected health information or individually identifiable information will subject the individual releasing the information to the disciplinary procedures set forth by the Arizona Department of Health Services, Office of Human Resources, Level I, Disciplinary policy. The disciplinary action may include dismissal from state service.

DIVISION OF PRIMARY POSITION OF RESPONSIBILITY:

Children's Rehabilitative Services Administration/HIPAA Privacy Official

PROCEDURES:

A. Filing a Report of Concern by Complainant (e.g., Complaint)

1. Advise individuals who wish to make HIPAA complaints or to report HIPAA related concerns pertaining to CRSA that such complaints/concerns must be made in writing.
2. Inform individuals who call CRSA to file a HIPAA complaint that they will be requested to complete a CRSA HIPAA Report of Concern form (See Attachment 1).
 - a. Callers can obtain a HIPAA Report of Concern form by the following methods:
 - (1) U.S. Mail or other approved methods of mail conveyance
 - (2) Facsimile
 - (3) ADHS HIPAA Web site
 - (4) E-mail
 - (5) In-Person by the individual or by another person on behalf of the individual
 - b. Direct callers who have questions of how to complete the Report of Concern form to the CRSA HIPAA Privacy Official for assistance.
3. Promptly begin the investigation process for a complaint.
4. Accept other written forms of communication to CRSA, including a notice of complaint, in lieu of the Report of Concern form. Attach the notice of complaint to the Report of Concern form and, if there is incomplete information, the investigator will attempt to obtain that information during the investigative process.
5. Route the completed document to the CRSA HIPAA Privacy Official for investigation, follow-up, and disposition of the matter.

B. Receipt of a Report of Concern by Complainant

1. Designate an individual for receiving, responding to and investigating HIPAA complaints.
2. Upon receiving a written HIPAA Report of Concern from a complainant, CRSA shall:

- a. Notify the ADHS HIPAA Compliance Officer by either phone or e-mail of the Report of Concern within one (1) business day of receiving the complaint.
- b. Forward a copy of the written document to the ADHS HIPAA Compliance Officer within two (2) business days of receiving the complaint.
- c. If the Report of Concern also references any other Division/Bureau-Program in the matter, CRSA or, as applicable, the ADHS HIPAA Compliance Officer, will forward a copy of the report to and consult with the other Department work area in the investigation and disposition of the matter.
- d. If the Report of Concern pertains to another location other than CRSA, the report must be forwarded to ADHS HIPAA Compliance, within two (2) business days for processing,
- e. If the Report of Concern contains information that may pertain to client's rights under a specific program's grievance and appeal process, CRSA must inform the Office of Children with Special Health Care Needs (OCSHCN) Office Chief of the complaint. A copy of the Report of Concern will be provided to the appropriate grievance and appeal area for the program(s) involved.
- f. Promptly notify the CRSA HIPAA Privacy Official (or designee) of the complaint if the person who receives the Report of Concern at CRSA is other than the OCSHCN Office Chief. The person who receives the Report of Concern, at CRSA, if other than the OCSHCN Office Chief, shall promptly notify the CRSA HIPAA Privacy Official (or designee) of the complaint.
- g. Direct the investigation process.
- h. Send an Acknowledgement Letter to the Complainant (See Attachment 2) within two (2) business days of receiving the complaint.
- i. Collaborate with the ADHS HIPAA Compliance Officer in the investigation and disposition of the matter.
- j. Document the investigation and disposition using the ADHS HIPAA Investigation Form (See Attachment 3).
- k. Consult with the Office of Human Resources (OHR), Risk Management and the Attorney General's Office, as appropriate, in the disposition of the individual's complaint.

- l. If corrective action is indicated from the findings of the investigation, CRSA, in consultation with the OHR and the ADHS HIPAA Compliance Officer, shall institute such action and provide documentation of the corrective action to OHR as required by ADHS Disciplinary policy, and to the ADHS HIPAA Compliance Officer.
- m. CRSA shall provide a written response using the approved agency format (See Attachment 4) to the person initiating the HIPAA complaint with thirty (30) days of receipt of the complaint, or as otherwise required by state or federal law or regulation. The response shall include:
 - (1) Disposition of the individual's HIPAA complaint; and
 - (2) Directions on how the individual may file a HIPAA Privacy or Security complaint with the Department of Health and Human Services (HHS), Office for Civil Rights, or a HIPAA Security or other HIPAA complaint with HHS, Centers for Medicare and Medicaid Services (CMS), and the time frames for filing a HIPAA complaint with HHS or CMS.
- n. If CRSA cannot complete its investigation and disposition of a HIPAA Report of Concern within thirty (30) days, CRSA will inform the ADHS HIPAA Compliance Officer of the need for any extension and provide ADHS HIPAA Compliance with documentation that supports the need for the extension and the anticipated date for resolution.
- o. In collaboration with ADHS HIPAA Compliance, CRSA will inform the complainant of the time extension needed for response (See Attachment 5). The notice of time extension shall:
 - (1) Include notification to the individual explaining the need for an extension and the date by which action will be completed on the matter.
 - (2) Not exceed an additional thirty (30) days after CRSA's date of receipt of the Report of Concern or as otherwise required by state or federal law or regulation.
 - (3) Be provided to the ADHS HIPAA Compliance Officer.
- p. Provide the ADHS HIPAA Compliance Officer with a final draft of the completed HIPAA Investigation Form including a brief summary of the complaint, and the investigative findings.
- q. Retain a log of all Reports of Concern for a minimum of six (6) years from the date of resolution of the last entry in the log.

- r. Retain the written Report of Concern, the HIPAA Investigation form, and other supporting documentation, including correspondence and other information pertaining to the Report of Concern, for a minimum of six (6) years from the date of final disposition of the matter.
- s. Document and maintain the disposition of any logs and other documents pertaining to a Report of Concern as administrative files according to State Library, Archives, and Records retention time frames, but not less than six (6) years from the date of the final disposition of the matter or from the date of the last matter entered into the log.
- t. The HIPAA Compliance Officer or his/her designee will conduct an annual audit review of all logs to ensure compliance with this policy.

C. No Retaliation and Duty to Mitigate

- 1. Mitigate, to the extent CRSA is capable, any harmful effect related to the use or disclosure of protected health information by a workforce member or a business associate when CRSA knows such activity violates CRSA or department's HIPAA policies and procedures. CRSA will consult with the ADHS HIPAA Compliance regarding the event and mitigation plan. In emergent situations, CRSA will take steps needed to mitigate the event and notify the ADHS HIPAA Compliance Officer as soon as possible.
- 2. CRSA, and any other areas of the department, as applicable, will not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against any individual who exercises a right, reasonably expresses opposition to an act or practice that violates HIPAA or participates in a process including filing a complaint and participation in any part of the complaint determination process, as permitted by the HIPAA Regulations.
- 3. CRSA and any other ADHS work area shall not prohibit any individual, group, or entity from exercising the right to make a HIPAA related complaint or express any other HIPAA concern pertaining to ADHS or CRSA. Neither ADHS nor CRSA will make the waiver of the right to complain a condition of access to ADHS related services, including services provided by contractors or agency of the department, to qualified individuals. Neither ADHS nor CRSA shall permit or condone any retaliatory acts against an individual who alleges any HIPAA violation against the department CRSA or other work areas of ADHS.
- 4. Discipline and/or dismiss any individual who violates this policy in accordance with the ADHS Disciplinary policy.

Approved:

Date:

Joan Kaystall
CRSA Administrator

9/24/07

ARIZONA DEPARTMENT OF HEALTH SERVICES
CHILDREN'S REHABILITATIVE SERVICES ADMINISTRATION

REPORT OF HIPAA PRIVACY CONCERN

INDIVIDUAL WHOSE INFORMATION IS THE SUBJECT OF THIS REPORT

Date: _____

Name of Individual: _____
(Print Name)

Date of Birth: _____

AREA(S) OF CONCERN

I am filing this Report of Privacy Concern because I believe there may have been a violation of my (or the above named individual's) privacy rights or other privacy standards required by the Health Insurance Portability and Accountability Act (HIPAA). I understand that the Arizona Department of Health Services (ADHS) or the ADHS Health Care Component (HCC) indicated below will investigate this report of concern and notify me and/or the above named individual of the decision in this matter. ADHS has up to **30 days** to respond to a report of concern unless I am notified of the need for an extension to investigate this matter or if Arizona or other federal law requires a shorter time period. **ADHS HAS NO AUTHORITY TO INVESTIGATE ANY HIPAA COMPLAINT AGAINST A PERSON, ORGANIZATION, OR ENTITY OUTSIDE OF ADHS OR WHO IS NOT AN ADHS CONTRACTOR.**

The Report of Concern pertains to the following ADHS area (please check one box below and also indicate what program, if applicable):

☐ Arizona State Hospital

(Program)

☐ Arizona Community
Protection & Treatment
Center

☐ Behavioral Health Services

(Program)

☐ Children's Rehabilitation Services Administration

☐ Other ADHS Program/Divisions

(Please Specify)

PLEASE SPECIFY YOUR CONCERNS:

(Please attach additional sheets as necessary or other documentation that explains the nature of your concern)

ADHS HIPAA REPORT OF CONCERN

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RESOLUTION OF COMPLAINT

Please describe how your privacy complaint could be resolved: _____

(Please attach additional sheets as necessary)

HIPAA PRIVACY RIGHTS

HIPAA Privacy Rights- An individual is entitled to the following rights associated with that individual's Protected Health Information (PHI) pertaining to an ADHS health care covered component (HCC): (1) to receive the Notice of Privacy Practices; (2) to access and copy PHI in a designed record set; (3) to request additional privacy protection/confidential communication/restrictions on uses of disclosures for PHI; (4) to request an amendment of PHI; (5) to receive an accounting of disclosures of PHI; and (6) the right to file a complaint regarding HIPAA compliance by ADHS or a HCC of ADHS.

Unless otherwise allowed by law, services cannot be conditioned on or discontinued because an individual exercises his/her HIPAA Privacy rights, including the right to report what that individual believes may be a HIPAA violation. No retaliatory action may be taken against any individual, including an employee of this agency or the State of Arizona, as a result of that person making a HIPAA Privacy related complaint.

ADDITIONAL HIPAA COMPLIANCE REQUIREMENTS

ADHS, including a HCC of ADHS, must protect the confidentiality, integrity, and availability of electronic protected health information (ePHI) and comply with the HIPAA Standard Transaction and Code Sets and other requirements of the HIPAA Administrative Simplification Standards.

CONTACT INFORMATION AND SIGNATURE

Please provide the following information that will allow ADHS to contact you if we need further information about your Report of Concern:

Party Making Report *(if other than subject of report)*: _____
(Please Print Name)

Signature of Party: _____

Address: _____

Telephone: _____

Witness: _____

ADHS HIPAA REPORT OF CONCERN

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If signed by someone other than the subject of this report, please identify your relationship:

*(*Check only one category and enclose supporting documentation verifying relationship)*

- | | | | | |
|--|---|--|---|--|
| <input type="checkbox"/> Adult Member (Self) | <input type="checkbox"/> Guardian over Individual | <input type="checkbox"/> Health Care Power of Attorney | <input type="checkbox"/> Mental Health Care Power of Attorney | <input type="checkbox"/> Surrogate Decision Maker:
<input type="checkbox"/> Spouse, unless legally separated
<input type="checkbox"/> Parent
<input type="checkbox"/> Adult Child
<input type="checkbox"/> Adult Brother or Sister |
| <input type="checkbox"/> Foster Parent | <input type="checkbox"/> DES Case Manager | <input type="checkbox"/> Other (please specify relationship) | | |

ARIZONA DEPARTMENT OF HEALTH SERVICES
CHILDREN'S REHABILITATIVE SERVICES ADMINISTRATION

HIPAA REPORT OF CONCERN
INVESTIGATION FORM

Date of Report of Concern: _____

Name of Person who is making the Complaint (*state "Unknown" if the report was made anonymously*):

_____ Relationship to Subject: _____

Report Received By: _____ Title: _____ Date of Receipt: _____

Type of HIPAA Complaint:

- | | |
|--|---|
| <input type="checkbox"/> Denial-Access/Copies to PHI | <input type="checkbox"/> Denial-Request for Restriction |
| <input type="checkbox"/> Denial-Request for Confidential Communications | <input type="checkbox"/> Denial-Request to Amend Record |
| <input type="checkbox"/> Denial-Accounting of Disclosure of PHI | <input type="checkbox"/> Notice of Privacy Practices |
| <input type="checkbox"/> Failure to Safeguard Confidentiality, Access and Integrity of PHI | |
| <input type="checkbox"/> Other _____ | |

Response Timeframe: ☐ 30 day ☐ 60 day ☐ *Other Extension of Time (if applicable) ☐ 30 day

Reason for Extension or Explanation of *Other: _____

Extension Approved by: _____ Title: _____

HCC Designee Investigator: _____ Title: _____

(please print)

ADHS HIPAA Compliance Designee: _____ Title: _____

(please print)

Name(s) of person(s) interviewed, Title(s) and Date(s):

Description of documents reviewed:

**FORM LETTER FOR
HIPAA COMPLAINT ACKNOWLEDGEMENT
LETTERHEAD**

Ms. Jane Doe
0000 West North Street
Phoenix, Arizona 85000

Dear Ms. Doe:

This letter is to acknowledge receipt of your Health Insurance Portability and Accountability Act (HIPAA) written Report of Concern to the Arizona Department of Health Services (ADHS), [insert name of covered area]. The Report was received in this office on _____.

All HIPAA complaints are reviewed in the order in which they are received and depending upon the number and complexity of the allegations and issues involved; however, some may take longer than others. All HIPAA complaints submitted to this office are afforded the same degree of attention and thoroughness.

Barring any unforeseen circumstances, a response will be issued to you on or before [calculate 30 calendar days or other time-frame, as required by Arizona or other federal law (i.e., A.R.S. §§ 36-517.01-.02 business days for review of denial of access to information pertaining to a court ordered evaluation, examination and treatment or confidential mental health information)] _____.

If you have any questions concerning this complaint, please contact me at _____.

Sincerely,

[CRSA HIPAA Privacy Official]

Cc: File

HIPAA Complaint Disposition Letter

Ms. Jane Doe
0000 West North Street
Phoenix, Arizona 85000

Dear Ms. Doe:

I (we) have reviewed the issues, facts, and documents contained in your Health Insurance Portability and Accountability Act (HIPAA) complaint received by this office on _____. Appropriate interviews (if applicable) were also conducted.

In your complaint, you allege *(State each complaint, as outlined by the complainant)*

(State the finding to each outlined complaint)

(State the conclusion and decision)

There is insufficient evidence to support your allegation(s) regarding... **or** There is sufficient evidence to support your allegation(s) regarding ...

(State decision made)

TEMPLATE

Ms. Jane Doe

Date

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LAST PARAGRAPH

If you are unsatisfied with this response, you have the right to file a complaint with the United States Government, Department of Health and Human Services (HHS).

For HIPAA Privacy Complaints, you may file a written complaint with the HHS, Office for Civil Rights (OCR), 50 United Nations Plaza, Room 322, San Francisco, CA, 94102 or call 1-800-368-1019. **Please note that you must file your written complaint with the OCR within 180 days of when you knew the act or omission pertaining to your HIPAA Privacy Rights occurred.** Please see www.os.dhhs.gov/ocr/hipaa for additional information.

For HIPAA Security and other HIPAA Complaints, you may file a written complaint with the HHS, Centers for Medical and Medicaid Services (CMS), 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

Sincerely,

[HIPAA Compliance Officer or Health Care Component Privacy Officer]

____:SA:____

Cc: File

AGENCY LETTERHEAD

ARIZONA DEPARTMENT OF HEALTH SERVICES
CHILDREN'S REHABILITATIVE SERVICES ADMINISTRATION
HIPAA COMPLAINT

NOTICE OF TIME EXTENSION

[DATE]

CONFIDENTIAL

[INSERT ADDRESS]

[
[]
[]

Re: [INSERT NAME OF COVERED AREA] HIPAA Complaint

Dear _____:

We have received your written Health Insurance Portability and Accountability Act (HIPAA) Complaint regarding [INSERT NAME]. Unfortunately, we have been unable to complete our review of your complaint, and we need additional time to respond to your request, as allowed by HIPAA. We expect to be able to provide a response to you no later than [INSERT RESPONSE DATE]. This extension will not exceed an additional thirty (30) days from the date we received your request. We apologize for the delay, and we appreciate your patience.

Sincerely,

CRSA HIPAA Privacy Official

Cc: HIPAA Complaint File